



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,967	01/06/2006	Isabelle Bara	283045US0PCT	7330
22850	7590	10/07/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER GRESO, AARON J	
			ART UNIT 4131	PAPER NUMBER
			NOTIFICATION DATE 10/07/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No. 10/563,967	Applicant(s) BARA, ISABELLE	
	Examiner Aaron Greso	Art Unit 4131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on January 6, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>January 6, 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Rodelet US 6432912*. The reference discloses employing linear methyl siloxanes of the form methyl-[(CH₂)₂Si-O]_m-methyl (*Col 2 Line 15*). When m is 2, Applicant's hexamethyldisiloxane is described. When m is 3, Applicant's octamethyltrisiloxane is described. It should be noted that the Applicants siloxanes are employed individually in Examples 1, 3, 4, and 6 (*Col 3 and 4*). However, *Rodelet* teaches that the siloxanes may be employed individually, or as a mixture (*Col. 2, Lines 35-36*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed any of the siloxanes described by *Rodelet* (including hexamethyldisiloxane and octamethyltrisiloxane) in the form of a mixture in any ratio (including the Instant Claims 1-3 ratios).

Claims 4 and 8-9 are also rejected as being unpatentable over *Rodelet* because reference also demonstrates a use of a fragancing bases in the range of 8-12% by weight (*Col 3-4 Examples 1-4 and 6*) and these ranges are within the range indicated by Claims 4 and 8-9.

Art Unit: 4131

Claims 6 and 13-16 are suggested by *Rodelet* because esters are only needed when the perfume base is apolar (*Col 2 Line 60-62*). Therefore, if a polar base is used, the ester is not needed; this supports a prima facie obvious rejection for these claims.

Claims 7 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Rodelet* as applied to claims 1 and 2 above, and further in view of the teachings by *Krzysik* (*US 5160494*).

Rodelet (*US 6432912 Col 2 Lines 8-45*) teaches compositions combining hexamethyldisiloxane and octamethyltrisiloxanes along with fragrant materials. However, *Rodelet* fails to teach the inclusion of such compositions along with an aerosol device. *Krzysik* (*US 5160494*), on the other hand, teaches the use of silicone fluids, such as either hexamethyldisiloxane and octamethyltrisiloxane in combination with fragrance oils (*US 5160494 Col 3 Lines 58-60 and Col 4 Lines 28-44*), along with propellants (such as isobutane) that allow for comprising perfume formulations for "aerosol delivery" (*US 5160494 Col 4 Lines 5-10*). As such, it would be obvious to those in the art that aerosol delivery of a perfume would indicate that a perfume aerosol device would comprise a perfume or a perfume composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON GRESO whose telephone number is (571)270-7337. The examiner can normally be reached on M-F 0730-1700.

Art Unit: 4131

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/
Supervisory Patent Examiner
Art Unit 4131

AJG